

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

GEOFFREY STEPHEN HALL,

Plaintiff,

Case No. 23-cv-258-pp

v.

KILOLO KIJAKAZI,

Defendant.

**ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO PROCEED
WITHOUT PREPAYING FILING FEE (DKT. NO. 3)**

The plaintiff has filed a complaint seeking judicial review of a final administrative decision denying his claim for disability insurance benefits under the Social Security Act. Dkt. No. 1. He also filed a motion for leave to proceed without prepaying the filing fee. Dkt. No. 3.

To allow the plaintiff to proceed without paying the filing fee, the court first must decide whether the plaintiff can pay the fee; if not, it must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and 1915(e)(2)(B)(i).

Based on the facts in the plaintiff's affidavit, the court concludes that he does not have the ability to pay the filing fee. The plaintiff's request indicates that he is not employed, he is not married, and he has no dependents he is responsible for supporting. Dkt. No. 3 at 1. The plaintiff's monthly income is \$3,729.64 in "VA Disability – 100% P&T Rating." *Id.* at 2. The plaintiff lists monthly expenses of \$4,090.11 (\$1449.11 mortgage, \$316 credit card

payments, \$1,500 other household expenses, \$250 ready made food, \$225 coping tools, and \$350 household needs). Id. at 2-3. The plaintiff owns a 2016 Kia Rio, worth approximately \$4,300; he owns his home, with approximately \$7,900 in equity; he owns no other property of value; and he has approximately \$2,053 in cash on hand or in a checking or savings account. Id. at 3-4. The plaintiff states, “I am 100% permanently and totally disabled, and have had to deal with a good deal of unexpected expenses in the last year, and likely will continue to do so . . . I am still on a very fixed income and often have to use credit cards to make ends meet as I wait for this case to be resolved . . . The relatively high totals in my accounts are due to the fact that I get paid early in the month, and have many bills to pay yet.” Id. at 4. The plaintiff has demonstrated that he cannot pay the \$350 filing fee and \$52 administrative fee.

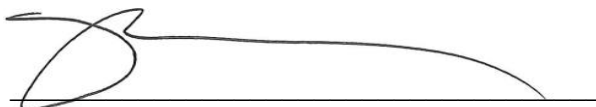
The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. Denton v. Hernandez, 504 U.S. 25, 31 (1992) (quoting Nietzke v. Williams, 490 U.S. 319, 325 (1989); Casteel v. Pieschek, 3 F.3d 1050, 1056 (7th Cir. 1993)). A person may obtain district court review of a final decision of the Commissioner of Social Security. 42 U.S.C. §405(g). The district court must uphold the Commissioner’s final decision as long as the Commissioner used the correct legal standards and the decision is supported by substantial evidence. See Roddy v. Astrue, 705 F.3d 631, 636 (7th Cir. 2013).

The plaintiff's complaint indicates that after a stipulated remand to the Commissioner in a previous appeal filed in this district (21-cv-1289-BHL) and a new hearing by an administrative law judge, the plaintiff again was denied benefits for lack of disability. Dkt. No. 1 at 1. The plaintiff states that the decision by the Commissioner when denying benefits is "not in accordance with the purpose and intent of the Social Security Act, nor is it in accordance with the evidence, but contrary thereto, in that the ALJ's decision is not supported by substantial evidence and is contrary to law." Id. at 2. At this early stage in the case, and based on the information in the plaintiff's complaint, the court concludes that there may be a basis in law or in fact for the plaintiff's appeal of the Commissioner's decision, and that the appeal may have merit, as defined by 28 U.S.C. §1915(e)(2)(B)(i).

The court **GRANTS** the plaintiff's motion for leave to proceed without prepaying the filing fee. Dkt. No. 3.

Dated in Milwaukee, Wisconsin this 27th day of February, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
Chief United States District Judge